



## **II. JURISDICTION OF THE COMMISSION**

In accordance with S.C. Code Ann. § 58-27-140 (1) (Supp. 2009), the Commission may, upon petition, “ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be furnished, imposed, observed, and followed by any or all electrical utilities.” Further, S.C. Code Ann. § 58-27-865(B) (Supp. 2009) states, in pertinent part, that “[u]pon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period.”

Consistent with the requirements of S.C. Code Ann. § 58-27-865(B), the Commission convened an evidentiary hearing to determine the reasonableness of the Parties’ settlement and whether acceptance of the settlement is just, fair and in the public interest.

## **III. DISCUSSION OF THE HEARING AND THE SETTLEMENT AGREEMENT**

The public evidentiary hearing in this matter was held on August 31, 2010 before this Commission with the Honorable David A. Wright presiding as Chairman. Representing the Parties were Timika Shafeek-Horton, Esquire, Brian L. Franklin, Esquire, and Bonnie D. Shealy, Esquire, for the Company; Scott Elliott, Esquire, for SCEUC; and Shannon Bowyer Hudson, Esquire, and Courtney Edwards, Esquire for ORS. At the hearing, the Parties presented the Settlement Agreement, which was admitted into the record as Hearing Exhibit 1. In the Settlement Agreement, the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party’s interests and the public interest

would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

Further, the Parties presented witnesses in support of the Settlement Agreement and various other matters related to the Company's base rates for fuel costs. Duke Energy Carolinas' witnesses John W. Pitesa, Thomas C. Geer, John J. Roebel, Marion Elliott Batson and Jane L. McManeus presented direct testimony on behalf of the Company. The pre-filed testimony of all Company witnesses was accepted into the record without objection, and the Company testimony exhibits were marked as composite hearing exhibits 3 through 6 and entered into the record of the case.<sup>1</sup>

Company witness John W. Pitesa discussed the performance of Duke Energy Carolinas' nuclear generation fleet during the review period.<sup>2</sup> He reported to the Commission that Duke Energy Carolinas achieved a net nuclear capacity factor, excluding reasonable outage time, of 102.78% for the current period, which is above the 92.5% set forth in S.C. Code Ann. § 58-27-865. Company witness Thomas C. Geer provided further information regarding the Company's nuclear fuel purchasing practices and costs for the review period and described changes expected in the 2010-2011 forecast period.

Next, Company witness John J. Roebel discussed the performance of the Company's fossil-fueled and hydroelectric generating facilities during the period of June 1, 2009 through

---

<sup>1</sup> Composite Hearing Exhibit 3 consists of the Direct Testimony Exhibits of John W. Pitesa (Exhibits 1-3 with Exhibit 3 entered in redacted and non-redacted versions); Composite Hearing Exhibit 4 consists of the Direct Testimony Exhibits of Thomas C. Geer (Exhibits 1-2); Composite Hearing Exhibit 5 consists of the Direct Testimony Exhibits of Marion Elliott Batson (Exhibits 1-3); Composite Hearing Exhibit 6 consists of the Direct Testimony Exhibits of Jane L. McManeus (Exhibits 1-9).

<sup>2</sup> On August 11, 2010 in Order No. 2010-558, the Commission granted the Motion of Duke Energy Carolinas to treat specific material filed in the present proceeding as confidential. Specifically, the Commission Ordered that certain materials contained in Duke Energy Carolinas' witness John W. Pitesa's Testimony and Exhibit 3 should be treated as confidential.



recovered in its fuel costs, including environmental costs, at the end of the billing period in September 2011.

Following the Company witnesses, ORS presented the direct testimony of Mr. Robert A. Lawyer, who also sponsored composite Hearing Exhibit 2.<sup>3</sup> Specifically, Mr. Lawyer testified about the examination carried out by ORS as well as the agreed upon accounting adjustments reflected in the Settlement Agreement. With regard to the true-up of over/under-recovered fuel costs, he testified that ORS analyzed the cumulative over-recovery of the Base Fuel Costs that Duke Energy Carolinas had incurred for the period June 2009 through May 2010 totaling \$53,785,597. On behalf of ORS, Mr. Lawyer then added the projected under-recovery for the months of June through September 2010 to arrive at a projected cumulative over-recovery balance of \$33,566,790 as of September 2010. Duke Energy Carolinas' cumulative over-recovery, per its testimony in this docket, as of May 2010 totals \$53,803,000, and as of September 2010, the cumulative over-recovery totals \$33,584,000. The Settlement Agreement stated that the difference between Duke Energy Carolinas' and ORS's cumulative over-recovery as of actual May 2010 totaled \$17,403. The difference between Duke Energy Carolinas' and ORS's cumulative over-recovery as of September 2010 totals \$17,210. In the Settlement Agreement the Parties agreed to stipulate to ORS' calculations and adjustments in this matter.

On behalf of ORS, Mr. Lawyer then analyzed the cumulative over-recovery of the environmental costs that Duke Energy Carolinas had incurred for the period June 2009 through May 2010 totaling \$3,242,609. Mr. Lawyer explained that ORS added the Company's projected under-recovery of (\$585,000) for the month of June 2010, the projected under-recovery of

---

<sup>3</sup> Composite Hearing Exhibit 2 consists of the Direct Testimony and Exhibits of Robert A. Lawyer (Exhibits 1-7); and the Direct Testimony and Exhibits of Michael Seaman-Huynh (Exhibits 1-11).



- (a) The Parties agree to accept all accounting adjustments as set forth in ORS witness Robert A. Lawyer's pre-filed direct testimony.
- (b) The Parties agree that the fuel factors contained in Paragraph 5 of the Settlement Agreement represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2010 through the last billing cycle of September 2011 by customer class as set forth in the following table:

Class of Service	SC Base Fuel Factor McManeus Exhibit 9 (¢/kWh)	SC Environmental Factor McManeus Exhibit 9 (¢/kWh)	SC Combined Projected Fuel Factor McManeus Exhibit 9 (¢/kWh)
Residential	2.0625	0.0445	2.1070
General/Lighting	2.0625	0.0327	2.0952
Industrial	2.0625	0.0253	2.0878

- (c) The Parties agree that the fuel factors set forth in Paragraph 5 of the Settlement Agreement were calculated consistent with S.C. Code Ann. § 58-27-865, and further, that fuel costs for periods beginning on June 1, 2010 and thereafter shall be open issues for determination by the Commission in future fuel cost proceedings held under the procedure and criteria established in S.C. Code Ann. § 58-27-865.
- (d) The Parties agree that to keep the Parties and Duke Energy Carolinas' customers informed of the over/under-recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel



inhibit economic development in South Carolina. Additionally, the Commission finds and concludes that the Settlement Agreement affords the Parties with the opportunity to review costs and operational data in succeeding fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865.

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement attached hereto as Exhibit 1, and the pre-filed direct testimony of ORS witnesses Robert A. Lawyer and Michael L. Seaman-Huynh, and Duke Energy Carolinas' witnesses John W. Pitesa, Thomas C. Geer, John J. Roebel, Marion Elliott Batson, and Jane L. McManeus, along with their respective exhibits entered into evidence as composite Hearing Exhibits 2-6, are accepted into the record in the above-captioned case without objection. Further, the oral testimony of the above witnesses presented at the hearing on August 31, 2010, is also incorporated into the record of this case.

2. The Settlement Agreement is incorporated into this present Order by reference and attachment and is found to be a reasonable resolution of the issues in this case and to be in the public interest.

3. The fuel purchasing practices, plant operations, and fuel inventory management of Duke Energy Carolinas are reasonable and prudent.

4. Duke Energy Carolinas shall set its fuel factor (excluding environmental costs) at 2.0625 cents per kWh effective for bills rendered on and after the first billing cycle of October 2010 and continuing through the billing month of September 2011.

5. Duke Energy Carolinas shall set its environmental cost component factor at 0.0445 cents per kWh for the Residential customer class, 0.0327 cents per kWh for the General

Service/Lighting customer class, and 0.0253 cents per kWh for the Industrial customer class for bills rendered on or after the first billing cycle of October 2010 and continuing through the billing month of September 2011.

6. The Parties shall abide by all terms of the Settlement Agreement.

7. Duke Energy Carolinas shall file an original of the South Carolina Retail Adjustment for Fuel Cost and all other retail Tariffs within ten (10) days of receipt of this Order with the Commission and ORS.

8. Duke Energy Carolinas shall comply with the notice requirements set forth in S.C. Code Ann. § 58-27-865.

9. Duke Energy Carolinas shall continue to file the monthly reports as previously required.

10. Duke Energy Carolinas shall account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. ORS shall review the cumulative recovery account.

11. Duke Energy Carolinas shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

12. Duke Energy Carolinas shall inform the Parties in the 4<sup>th</sup> quarter of the calendar year prior to the next annual fuel proceeding and in the 1<sup>st</sup> quarter of the calendar year of the Company's next annual fuel proceeding, of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and

Duke Energy Carolinas' forecast of prices for uranium, natural gas, coal, oil and other fuel required for generation of electricity.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
John E. Howard, Chairman

ATTEST:

\_\_\_\_\_  
David A. Wright, Vice Chairman

(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2010-3-E**

IN RE:

Annual Review of Base Rates for Fuel Costs	)	
of Duke Energy Carolinas, LLC	)	<b>CERTIFICATE OF</b>
	)	<b>SERVICE</b>

This is to certify that I, Pamela J. McMullan, have this date served one (1) copy of the **PROPOSED ORDER** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Charles Alex Castle, Esquire  
Brian L Franklin, Esquire  
Lara Simmons Nichols, Esquire  
Timika Shafeek-Horton, Esquire  
Duke Energy Carolinas, LLC  
Post Office Box 1006 (EC03T)  
Charlotte, SC 28201

Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, SC 29201

Bonnie D. Shealy, Esquire  
Frank R. Ellerbe, III, Esquire  
Robinson McFadden & Moore, PC  
Post Office Box 944  
Columbia, SC 29202

  
\_\_\_\_\_  
Pamela J. McMullan

September 21, 2010  
Columbia, South Carolina